# INTERNATIONAL CONTROL OVER NON-SELF-GOVERNING TERRITORIES

by
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1949
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BOSTON UNIVERSITY

GRADUATE SCHOOL

Thesis

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by

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(A.B. Cheng-chi University, China, 1945)

submitted in partial fullfilment of the

requirements for the degree of

Master of Arts

1949

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For years I have felt a lively interest in the problem of non-self-governing territories of the world. This interest was greatly increased under the teaching and influence of Dr. William Verhage, who is an acknowledged authority on this subject. It is his suggestion that very largely inspired the writing of this thesis.

The writer wishes to express his deep appreciation to Professors William Verhage and Chase Kimball for their helpful suggestions, criticisms, and careful reading of this thesis during its preparation.

CONTENTS


| Chapters | page |
|---|---|
| I. INTRODUCTION | 1 |
| 1. Statement of the Purpose | |
| 2. Statement of the Sources | |
| 3. Preview of the Organization | |
| II. NON-SELF-GOVERNING TERRITORIES IN WORLD POLITICS | 4 |
| 1. Importance of Non-Self-Governing Territories | |
| 2. Center of International Rivalry | |
| 3. Struggle for Self-Government and Independence | |
| III. DEVELOPMENT OF INTERNATIONAL RESPONSIBILITY | 12 |
| 1. Movements against Colonization | |
| a. Huminitarian Movement | |
| b. Equality of Economic Opportunity | |
| c. Socialist Movement | |
| 2. Public Opinion | |
| 3. International Conventions | |
| IV. MANDATES SYSTEM | 21 |
| 1. The Formation of the System | |
| 2. Princples of the System | |
| 3. Classes of Mandates | |
| 4. The Permanent Mandates Commission | |
| 5. Evaluation | |
| V. FORMATION OF INTERNATIONAL TRUSTEESHIP SYSTEM | 31 |
| 1. Secretary Hull's Proposal | |
| 2. Yalta Formula | |
| 3. San Francisco Conference | |
| VI. DECLARATION ON NON-SELF-GOVERNING TERRITORIES | 36 |
| VII. INTERNATIONAL TRUSTEESHIP SYSTEM | 43 |
| 1. Basic Objectives | |
| 2. Legal Problems | |
| 3. A Comparison | |

VIII. TRUST TERRITORIES 53

1. What is a Trust Territory
2. Trust Territories and Mandates
3. Strategic Area and Areas

IX. TRUSTEESHIP AGREEMENTS 58

1. Approval of the General Assembly
2. General Provisions
3. Agreement for a Strategic Area

X. TRUSTEESHIP COUNCIL 77

1. The Composition
2. Its Establishment
3. Functions and Powers

XI. INTERNATIONAL AGENCIES 87

1. United Nations Secretariat
2. Regional Advisory Commissions
   a. Caribbean Commission
   b. South Pacific Commission
3. Specialized Agencies
   a. International Labor Organization
   b. Food and Agriculture Organization
4. The Economic and Social Council

XII. Summary and Conclusions 99

Appendixes
1. Article 22 of the Covenant of the League of Nations
2. Articles of the United Nations Charter Applicable to Non-Self-Governing Territories and International Trusteeship System

Bibliography

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# CHAPTER I

# INTRODUCTION

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The establishment of the United Nations marked a greatly significant development in the government of peoples of non-self-governing territories. Its basic objectives, peace, human liberty, and economic well-being, are common to all human beings. The United Nations set up machinery for overseeing the governing of the non-self-governing territories in general, and the international trusteeship system for certain types of them in particular. The success or failure of such machinery for non-self-governing territories means not only the destiny of the United Nations itself, but the fate of mankind.

## 1. Statement of the Purpose

One of the outstanding features of the United Nations Charter is the spirit of respect for human rights and and freedoms for all individuals. This principle is particularly expressed in the provisions concerning peoples of non-self-governing territories, which were never so progressively

attempted by international administration before the United Nations.

Now, here comes a series of questions in my mind. Why are non-self-governing territories so remarkably important in world politics? Where does the principle of the United Nations machinery for non-self-governing territories come from? How does it differentiate itself from colonial administration and the mandates system of the League of Nations? How was it formed during the Second World War? What are its basic objectives, its scope, and its implementation? Is the machinery of the United Nations workable for the well-being of the peoples of non-self-governing territories and for the peace and order of the world as a whole? These are the questions that we shall attempt to discuss and answer in this thesis.

By careful examination of all the problems involved, I hope that this thesis will be a clear picture in this field.

## 2. Statement of the Sources

In preparing this thesis, I have drawn all necessary materials from the following fields:

a. world politics in relation to rivalry for colonial and overseas possessions;

b. the colonial administration and its lessons;

c. principles and developments of international organizations;

d. lessons of the mandates system under the League of Nations; and

e. principles and developments of the United Nations in relation to the peoples of non-self-governing territories.

Official documents and publications, magazines, and newspapers are the major sources of which this thesis has been built.

3. Preview of the Organization

This thesis has been organized in the following manner. First, I have engaged in a discussion of non-self-governing territories in world politics (chapter II), which is a general survey of the problem. Then we can see that a principle of international responsibility has been developed, during past decades, by various movements, public opinion, and international conventions(chapter III). We pay particular attention to the mandates system (chapter IV), which was the first international attempt to apply such a principle. A new system was formed, during the Second World War, with the birth of the United Nations (chapter V). The United Nations set up machinery for all non-self-governing territories in general (chapter VI), and the international trusteeship system in particular, which is indeed substantial progress in international control over non-self-governing territories (chapter VII to XI). Last I set forth the summary and conclusions.

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# CHAPTER II

## NON-SELF-GOVERNING TERRITORIES IN WORLD POLITICS

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Some three hundred million people, or about one eighth of the population of the world, live in areas known as colonies, protectorates, mandates, trust territories, or the like. Non-self-governing territories, as used in this thesis, broadly cover all those areas. Non-self-governing territories are important, not only because of their resources and positions, but also in the conditions of modern warfare as naval stations, air bases, and communication centers. Powers, in the control of such territories, achieve the political prestige. Non-self-governing territories are centers for international rivalry. The contest among great powers for non-self-governing territories was, and still is, a standing incitement to international controversy. The peoples of non-self-governing territories have experienced, for a long time, the exploitation and colonization of great powers. The demand for social and economic development, or for self-government and independence, was a constant voice heard from non-self-governing territories.

1. Importance of Non-Self-Governing Territories

Non-self-governing territories occupy approximately one fifth of the area of the earth. These territories produce plenty of rubber, oil, sugar, palm oil, cocoanut oil, coffee, and other precious metals, rare minerals, phosphates and other products.[1] Most of these items are necessary to the civilized states in peacetime; they are often even more essential in case of war.

Non-self-governing territories are markets for exports, particularly of manufactures. They are fields for the profitable investment of capital. It is an advantage for the investor to operate in a field in which his own government has the political control. The administration often gives a preference to its own nationals in granting mining or other concessions. Money placed in the more backward regions would bring higher dividends than money invested at home.

Non-self-governing territories supply cheap labor. They may be able to furnish fighting men for use in war. The power to recruit native troops greatly exacerbates the conflict of interests between the powers in the backward areas of the world.

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1. Valkenburg, S.V. Elements of Political Geography, New York, Prentice-Hall, 1939, Chapter VI. pp.83-102.

Small islands and bits of mainland, whose products would never make them bones of contention between the powers, acquire inestimable value because of location with respect to trade routes, or in the vicinity of commercially important areas. Many of them are fortified harbors and fuel depots, the cable and radio stations. Most of such areas concurrently display their strategic importance as naval stations and air bases, which tremendously sharpen the conflict among the powers.

The extension of power abroad does not merely increase the national wealth but enhances national pride and prestige. Persons who otherwise had absolutely no interest in colonies frequently demanded overseas annexations or controls as a mark of national greatness.[2] Many statesmen became expansionists out of patriotic reasons, or in response to public clamor. Others did so to keep their jobs, or to take the minds of their people off unfavorable domestic conditions. Still others sought personal glory and wanted to be remembered in history as empire builders.

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2. Townsend, M.E. European Colonial Expansion Since 1871, New York, J.B. Lippincott Company, 1941, pp.3-16.

2. Center for International Rivalry

Colonial possessions signify power, prestige, economic advantage, trade, markets, raw materials, and wealth. It is from competition over these vital elements of national life that international rivalries have inevitably arisen and have as inevitably led to conflict.

The possession of non-self-governing territories among dominant powers never became equally distributed. New powers often demanded such territories vehemently against those powers who possessed very extensive and valuable dependencies. The balance of power was revised frequently by new and changing facts. However, such equilibrium was always corrupted by sudden international accidents. History repeated these facts to us.

Mr. W.E.B. Du Bois said emphatically, in his book titled Color and Democracy: Colonies and Peace[3] that "there is consequently not only the danger of eventual colonial revolt, of class struggle and minority discontent, but the continual danger of that rivalry for the distribution of profit among dominant nations which has already caused two world wars in our time, as well as being a partial cause of endless wars in the past, and a temptation to murder, destruction, and disorder

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3. Du Bois, W.E.B. Color and Democracy: Colonies and Peace, New York, Harcourt, Bruce and Company, 1945, Chapter V, p.101.

in the future." From his book, we have the following statistics of major wars which happened during 1792 to 1945:[4]

a. Rivalry for colonies

There were eight wars, including the war in 1792-1815 in Europe, America and Africa, Balkan war in 1912, first World War in 1914-1918 and second World War in 1939-45.

b. Spheres of influence

There were fourteen wars, including Sino-British war in 1840-42, Sino-Japanese war in 1894-95, United States-Mexico war in 1914-16 and British-Arabs war in 1929.

c. Colonial conquest

There were twenty-nine wars, including British-India war in 1816-18, British-Burma war in 1824-25, France-Tunis war in 1881, British-Egypt war in 1882, France-Indo-China war in 1884-85, Italy-Ethiopia war in 1934, etc.

d. Colonial revolt

There were forty-five wars, including Britain-Boers war in 1880-81, revolt in Hawaii in 1889, revolt in India in 1891, rebellion in Morocco in 1936, etc.

Strict interpretaion might reduce the list; but these figures resolutely and significantly indicate, at least, one fact, that is: Non-self-governing territories are the centers of international rivalry in the modern world. It is a constant threat to world peace and security of human beings.

Since rivalries for the control and possession of non-self-governing territories have caused wars for a century

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4. op. cit., pp.103-107.

and a half; it can be depended upon to remain as a continual cause of other wars in the centuries to come.

3. Struggle for Self-Government and Independence

Under the policy of exploitation and colonization, colonial powers have been guilty of brutal treatment of the most inhuman nature.[5] Peoples of non-self-governing territories have tolerated it in the past partly because of ignorance. With the growth of democracy and the spread of education, they come to conscience. In the beginning, they acquired a dynamic program of social and economic development which would establish a sound basis of adequate social organization and reasonable standards of life out of poverty, ignorance, and sickness. Consequently, the struggle for self-government and independence was the major phenomenon in non-self-governing territories. Many of them have achieved their independence, during past decades, through long years of struggle.

The demand for grant of political independence from external control has been developed under the principle of democracy. The peoples of non-self-governing territories believe that the doctrine of the "consent of the governed" should also apply to them and that it is the right of all

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5. Buell, R.L. International Relations, Henry Holt and Company, New York, pp. 324-342.

peoples to choose freely the form of government and of political and cultural institutions as they think best.

It is a fact that the more education and the more prosperity a non-self-governing territory derives from its colonial status, the more importunate become its demands for self-government and independence.

For example, as a result of second World War, the peoples of non-self-governing territories became more insistent than ever upon obtaining their freedom. One of the outstanding examples is the struggle of the Indonesian people against the colonial rule of Netherlands. The territory of Indonesia was ruled by the Netherlands from 1816 until the end of World War II,[6] when Dutch colonial rule was challenged by native demands for independence, crystallizing in the formation, in 1945, of the Indonesian Republic, later to become known as the United States of Indonesia, the status of which remained in dispute before the United Nations. An independent Republic of Indonesia was proclaimed by Indonesian nationalists at Batavia on August 17, 1945. Fighting between Indonesian nationalists and British forces followed, pending the arrival in January 1946 of Dutch forces who subsequently took over from the British. Sporadic fighting between European troops and the natives continued until

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6. Landheer, B. The Netherlands in a Changing World, New York, 1947, pp. 184-200.

November 18, 1946, when an agreement was drawn at Cheribon, Java, providing for recognition by the Netherlands of the Republic as a de facto authority over Java, Madoera, and Sumatra. A United States of Indonesia was to be created before January 1, 1949, as a federation of the entirely territory of the Netherlands East Indies, having co-equal states which the kingdom of the Netherland under the Dutch Crown.

However, armed clashes were resumed again by a Dutch offensive against the poorly equipped natives. Last December, full-scale warfare opened and the young Republic was crushed by the Dutch.

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# CHAPTER III

## DEVELOPMENT OF INTERNATIONAL RESPONSIBILITY

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There were, in history, many significant movements which helped to develop a moral obligation on the part of dominant powers towards backwards peoples. Public opinion had a profound influence in such a development. The idea of international responsibility for non-self-governing territories had in fact already found expression, though in somewhat indefinite form, in international conventions before the League of Nations.

### 1. Movements against Colonization

First, let us briefly survey the huminitarian movement which gave origin to what was the first effective revelation of an international moral spirit for the welfare of backward peoples. This movement was first developed by moralists and theologians.[1] In fact, the interests of this

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1. Wright, Quincy Mandates under the League of Nations, Chicago, 1932. pp.3-23.

movement were not limited to the affairs of colonial dependencies; in reality it took all human misery for its field. Nevertheless, it has not unnaturally tended to give first attention to conditions which it felt colonial administrations had it in their power to correct. This movement, centered in the attack on slavery, exerted itself in many ways of fighting.[2] The most significant influence of this movement was seen in its gaining the recognition for the moral doctrine of international responsibility in the administration of colonial dependencies. Unfortunately this principle was quickly seized upon by politicians to cover up the naked facts of domination and to justify their conduct on colonial policy. But, the value of this principle must be judged by the inspiration it brings to nobler minds, rather than the excuses which it affords to the baser instincts of mankind. In actuality, this movement suggested a new standard of conduct towards the peoples of non-self-governing territories in a generation which had hitherto looked on them only as a source of profit.

Secondly, let us take a glance on the movement of equality of economic opportunity which arose directly from the competitive rivalries of the economic world. Earliest stage of colonial expansion aimed at the establishment of a

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2. cf. The Act for the Abolition of the Slave Trade in 1807 and the Emancipation Act of 1833 in Britain; and the case 'The Cherokee Nation vs. the State of Georgia' in America.

monopoly by a system of prohibition; but the system of prohibition gradually gave way to that of preferential tariffs. Toward the end of the nineteenth century the rivalry of European nations in Africa gave rise to a movement of equality of economic opportunity which naturally brought a wide-spread international concern for the welfare of the indigenous inhabitants of colonial areas. Consequently this movement influenced many international agreements,[3] by which the open door system was established in numerous colonial territories. It has required the development of backward areas in the interest both of the indigenous inhabitants and of the world as a whole.

Finally, we shall indicate the tremendous influence of the Socialist movement, which played an important role in the development of international responsibility towards the peoples of non-self-governing territories. It has contributed largely to literature as bases of the thoughts and the efforts of anti-colonization. It has attacked the colonial system ruthlessly and significantly. It attacked capitalist aggression. Some Socialists even demanded that all colonial dependencies should be brought under some form of international administration or to be independent after a certain period of time.[4]

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3. op. cit., Buell, pp.344-370.
4. Coker, F.W. Recent Political Thought, New York, 1943, pp. 31-54.

These are the movements which have made several prominent milestones in the development of the principle of international responsibility to non-self-governing territories.

2. Public Opinion

Public opinion has an immense value in modern world politics. The principle of international responsibility for non-self-governing territories was, obviously, not the fruit of international conferences or even a deliberate formation of policy on the part of any government; it was born of a remarkable expression of public feeling during past decades.

Willoughly said in 1905 that the first principle of American colonial policy ought to be "primarily with a view to its(the colony's) own benefit or advancement and in no way as constituting a field for exploitation in the interest of the mother country."[5]

Walter Lippmann, in a book written in 1915,[6] stipulated that European conferences such as the Algeciras Conference on Morocco should not be disbanded when they have adopted a treaty but should "continue in existance as a kind of senate, meeting from time to time" and supervising the administration of the treaty. Ultimately, there would be one of these continuing

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5. Willoughby, Territories and Dependencies, New York, 1905, p.ii.
6. Walter Lippmann, The Stakes of Diplomacy, 2nd ed., New York, Henry Holt and Company, 1915, pp.7-25.

conferences or international senates for each of the sore spots where world crises originate, acting as a sort of "upper house"; while a native assembly would constitute a "lower house". Colonial administration would gradually become internationalized. Men going into backward countries would look to this new institution, rather than to their home governments, for protection; there would no longer be need of armed interventions and crises; and competitive imperialism would be deprived of its excuse and its stimulus.

In England somewhat similar proposals were made. Mr. J.A. Hobson, an eminent economist, felt as Lippmann did, that the Algeciras Act for international regulation of administration of Morocco indicated a direction in which a solution might be sought. He suggested that under the supervision of an international council an individual nation might be given the right of intervention and even of political control, in a backward country, under an express agreement to preserve the open door. This idea may also be traced back to the Berlin Act of 1885, placing the Congo basin under certain international restrictions, and prescribing, in particular, the open door.

Mr. Philip Kerr, editor of the "Round Table", spoke during the World War of 1916 of "trusteeship" and "tutelage" as the proper relationships between colonies and their possessors. Mr. Kerr and other British students interested in

imperial problems were probably a very important link in the chain that leads to the mandate system.

Furthermore, the Executive Committee of the British Labor Party in 1917 adopted in its proposal that all central Africa from sea to sea and from the Zambesi to the Sahara should be administered "by an impartial commission with its own staff" under the authority of the world organization which was to be established. And the representatives of labor organizations and socialist parties in the Inter-Allied Labor Conference in London in 1918 recorded themselves as favoring the "frank abandonment of every form of imperialism". The "colonies of all belligerents in Tropical Africa" should be placed under a "system of control, established by international agreement under the League of Nations and maintained by its guarantee.... respecting national sovereighty, inspire broad conceptions of economic freedom and safeguard the rights of the natives".

3. International Conventions

In its beginnings, the doctrine of international responsibility was largely ethical. But towards the middle of the nineteenth century its political aspect began to take shape. This idea had found expression, though in somewhat indefinite form, in international conventions before the League of Nations.

First, we can trace back to the General Act of the Conference of Berlin,[6] signed on February 26, 1885. According to its preamble, it pursued the following aims:

a. "in a spirit of good and mutual accord, to regulate the conditions most favorable to the development of trade and civilization in certain regions of Africa and to assure all nations the advantages of free navigation on the two rivers of Africa flowing into the Atlantic Ocean;

b. "to obviate the misunderstanding and disputes which might in the future arise from new acts of occupation on the coast of Africa, and, finally

c. "the furthering of the moral and material well-being of the native population."

All this was excellent as an expression of good intentions. When the discussion approached practical questions, power politics proved strong.

The General Act of the Conference of Brussels, signed July 2, 1890, took certain measures with a view to the suppression of the slave trade, the protection of freed slaves and the restriction of the importation of fire-arms and spirituous liquor into Africa. The preamble of this convention contained the following words:

> "Equally animated by the firm intention of putting an end to the crimes and devastations engendered by the traffic in African slaves, of effectively protecting the aboriginal populations of Africa,

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6. In 1884 Germany called a conference at Berlin to regulate the claims of various powers. This conference was attended by most of the western European countries, Russia and the United States.

"and of assuring to the vast continent the benefits of peace and civilization...."

At all events, in respect of none of these undertakings did any higher authority exist to which could be referred claims regarding their application or interpretation. Still less had it occurred to any one to create a permanent supervisory body responsible for seeing that these undertakings were carried out.

Meanwhile, the sense of international responsibility towards the world for the just government of non-self-governing territories and their native inhabitants had become more and more clearly developed. Nevertheless, there was no implementation to carry out such an idea, although some dominant powers directed their conduct partly on this principle in the colonial territories for which they were responsible.[7]

In 1893, a somewhat peculiar system was provided for in the case of Crete by the "provisional regulations", there was to be autonomy under the personal suzerainty of the Sultan of Turkey, the executive power was to be entrusted to a provisional governor "in virtue of the delegation from the Great

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7. For instance, in 1898, the United States recognized the right of Cuba to her independence and after four years of temporary occupation they withdrew from the island. In 1899 the American Senate announced the intention of the United States to establish in the Philippines "a government suitable to the wants and conditions of the inhabitants of the said island and to prepare them for local self-government ...." The President of the U.S. in a message dated December 3, 1900, described the American possession of the Philippines as an "unsought trust which should be unselfishly discharged".

Powers", this governor was to transmit every quarter to the representatives of the great powers in Constantinople a report on the administration of the island.

At the Conference of Algeciras held from January 16 to April 7, 1906, including representatives of eleven European nations and of the United States and Morocco, the real conflict was fought over the question of police and finance -- who would have the military control and who would exploit Morocco? President Roosevelt strenuously urged the Kaiser to accept "jointly with Spain a 'mandate' from all the powers, under responsibility to all of them for the maintenance of equal rights and opportunities". The word "mandate" and indeed the whole conception, anticipates in almost uncanny fashion the mandate system which was to be established fourteen years later.

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# C H A P T E R IV

## MANDATES SYSTEM

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The international trusteeship system is historically, though not legally, the successor of the mandates system of the League of Nations. The former was based upon the experience of the latter. So, before we discuss the international trusteeship system in detail, we should know what lessons we learned in the mandates system -- its formation, principles, types of mandates, the implementation, and the weaknesses of the system.

### 1. The Formation of the System

General Jan Smuts, regarded as the father of the mandates system, proposed in December 1918, that the territories formerly belonging to Russia, Australia-Hungary and Turkey should be placed under the authority of the League of Nations which could then "delegate its authority" over any given area to "some other state whom it may appoint as its agent or mandatory" subject to restrictions specified by the League in a special "act or charter" and subject also to the rule than "whenever possible, the agent of mandatory so appointed shall be nominated

or approved by the autonomous people or territory". Though Smuts here suggested the name and mechanism, he had no intention of applying the mandates system to the former German colonies in Africa or the Pacific.

In the plan for a League of Nations published by General Smuts in 1918, we find for the first time the broad outlines of an international Mandates System. The author described in twenty-one points, each accompanied by a brief commentary, the main characteristics of what in his view, should be the future international organization. The first nine points related to the fate of the countries which had belonged to the European or Near East Empires which had collapsed. In regard to these territories, General Smuts then recommends: That any authority, control or administration which may be neccessary in respect to these territories and peoples, other than their own self-determination and autonomy, shall be the exclusive function of and shall be vested in the League of Nations and exercised by or in behalf of it. And that the degree of authority, control or administration exercised by the mandatory state shall in each case be laid down by the League in a special Act or Charter, which shall reserve to it complete power of ultimate control and supervision, as well as the right of appeal to it from the territory or people affected against any gross breach of the mandate by the mandatory state.

As regards German colonies disposal should be on the basis of President Wilson's point five. In point five of his fourteen points speech on January 9, 1918, President Wilson said " A free open-minded, and absolutely impartial adjustment of all colonial claims based on a strict observation of the principle that in determining all such questions of sovereignty, the interest of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined." Between these lines one can read two conceptions characteristic of Wilsonian policy, namely: his earnest desire to prevent the peace settlement from becoming a sordid division of spoils and his hatred of imperialist greed and exploitation.

President Wilson, having read the Smuts plan, incorporated the provisions for mandates in his later statement in January 1919. While adopting most of the Smuts provisions, even to the wording, Wilson made significant changes. He omitted Russia, and included the former German colonies, along with the former Austro-Hungarian and Turkish possessions. He strengthened the provisions for the League's authority over mandates.

Between the Wilson plan for mandates and the Allied secret treaties there was first a battle, than a compromise, at the Paris Peace Conference in 1919.

2. The Principles of the System

The principles of Mandates System were laid down in Article 22 of the Covenant of the League of Nations. The first is that, to territories concerned, " which are inhabited by peoples not yet able to stand by themselves in the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization." The next principle is that " the tutelage of such peoples should be entrusted to advanced nations... and that this tutelage should be exercised by them as Mandatories on behalf of the League? "

Further it is provided that the Mandatory shall render an annual report to the League on the territories committed to its charge, that the League shall define the degree of control to be exercised, and that a permanent commission shall be set up to advise the Council of the League on all matters relating to be observance of Mandates.

The well-being and development of the native people was, then, the primary aim of the system. This was to be achieved by entrusting their tutelage to advanced nations who, in accepting the Mandate, would at the same time assume certain legal obligations towards the people. These Mandatories would, besides, be obliged to render an account of their administration to the League of Nations. The setting up of a higher authority, responsible for seeing that the

Mandates were faithful carried out, was the most original feature of the system .

3. Classes of Mandates

These principles applied to all classes of Mandates. Since, however, the character of the Mandate would be bound to differ according to the stage of development of the people and the geographical and economic circumstances of the territories, they were divided into three groups. These groups are often referred to for convenience as "A", "B" and "C" Mandates, respectively. The original designation of Mandatory Powers was made by the Supreme Council of the Principal Allied Powers in 1919 and 1920. The territories which they were to administer were as follows:

| Mandatory Powers | Mandates |
|---|---|
| United Kingdom | "A" -- Iraq, Palestine, Trans-Jordan<br>"B" -- Togoland (U.K.), Cameroons ( U.K.), Tanganyika |
| France | "A" -- Syria, Lebanon<br>"B" -- Togoland (Fr.), Cameroons (Fr.) |
| Belgium | "B" -- Ruanda-Urundi |
| Union of South Africa | "C" -- South-West Africa |
| Japan | "C" -- Marshall, Caroline and Mariana Islands |

| | |
|---|---|
| New Zealand | "C" -- Western Samoa |
| Australia<br>" His Britannic Majesty" administration by Australia on behalf of the Governments of the United Kingdom, Australia, and New Zealand. | "C" -- Nauru |

"A" mandates were applied to certain communities formerly belonging to the Turkish Empire which were considered to have reached a stage of development where their independence could be provisionally recognized, subject to administrative advice and assistance from a Mandatory power until they were able to stand alone. Of these former " A" mandated territories, Iraq, Syria, Lebanon, Tran-Jordan have become independent states,[1] and Palestine was partitioned by the United Nations in 1947.

"B" mandates were applied to the territories of central Africa not yet ready for self-government where the Mandatory had to be responsible for the administration of the territory. In all these mandates, the mandatory power must guarantee "freedom of conscience and religion, subject only to the maintenance of public law and morals ", the prohibition of the slave trade and of the traffic in arms and liquor , and the prevention of fortifications and military training of the natives.

"C" mandates were applied to territories which

1. Syria and Lebanon declared independence in 1944, Iraq in 1932 , and Trans-Jordan in 1946

owing to their particular circumstances, could best be administered as integral portions of the mandatory power's territory. The laws of the mandatory power might be applied to them, with such local modifications as circumstances might require, subject to the same safeguards in the interests of the natives, including those relating to defense bases and military training.

4. The Permanent Mandates Commission

The organ of the League responsible for advising the Council on all matters relating to the observance of the Mandates, was the Permanent Mandates Commission. This body consisted originally of nine, and later of ten members, the majority of whom were required to be nationals of non-mandatory states. All were appointed by the Council and selected for their personal merits and competence. A condition of their eligibility was that they should not hold any office which put them in a position of direct dependence on their governments. They were thus appointed as independent and impartial individuals and not as national representatives.

The functions of the Permanent Mandates Commission were advisory. It examined the annual reports submitted by the Mandatories, could make requests for further information , and submitted observations to the Council. The reports of the administrative authorities in the several mandated territories were not sent directly to the Permanent Mandates

Commission but transmitted through the governments of the mandatory powers. Petitions from inhabitants of a mandated territory for the redress of alleged grievances were also transmitted through the mandatory power. This procedure enabled the colonial authorities of the Mandatory to intervene between the Permanent Mandates Commission and the administrative authorities in the mandated territories. Obviously, this was a system of supervision very favorable to the interests of the mandatories and unfavorable to those peoples under the mandates.[2]

Nevertheless, the commission's examination of the Mandatories' reports was always searching and vigorous. Official minutes of the questions by the Commissioners and answers by representatives of the Mandatories, together with the observations of the Commission thereon, were printed for the information of the Members of the League, and for distribution to interested persons in all parts of the world. These printed proceedings of the Permanent Mandates Commission are an invaluable source of information concerning the government of the mandated territories during the years between the two great World Wars. They form the most important contribution that has been made to modern knowledge of the government of dependencies.

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2. Encyclopaedia of Social Science, Colonial System, Vol.III, 651-653; and Mandates, Vol. X, pp. 87-93. See also Quincy Wright, Mandates under the League of Nations, pp.135-155.

5. Evaluation

During twenty five years of its existence, the Mandates System had been, indeed, one of the most successful of the League's creations. Lord Lugard said in 1932, " The administration of the institution of mandates I look upon as the most successful achievement of the League to execute the Peace Treaties." [3] And Mr. Benjamin Gerig argued persuasively that the experiment in supervising the government of dependencies through the Permanent Mandates Commission had been sufficiently successful to justify experimentation with direct international government of backward territories.[4]

What were the contributions of the Mandates System to the development of international control over Non-Self-Governing Territories? First, the Mandates System marked the recognition of a degree of international responsibility for the good government of certain dependent areas. It brought, in real sense, the colonial world within the sphere of international concern. Secondly, the mandates System had, to begin with, the inherent advantage that it secured an " open door" for the League members in most of the mandated areas. This limited to some extent the range of action of competing economic imperialism which has been such a menance to world peace.

3. Webster, C.K. & Sydney, H. The League of Nations in Theory and Practice, Houghton Mifflin Company, Boston and New York, 1933. p. 290.
4. Gerig, B. Colonies in an Eventual World Settlement, International Conciliation, NO. 369, April 1941, p.519-525.

Yet, the Mandates System was not without its weak points. The greatest flaw in the working of the system was the fact that the Permanent Mandates Commission was not a principal organ of the League of Nations, and that its responsibility of supervision was greatly limited. The Commission was a purely advisory body. It was not composed of representatives of states, but of individual experts. It had no means of verifying a report. Professor Arthur N. Holcombe suggested:" The Permanent Mandates Commission should have been empowered to receive direct communications from the indigenous inhabitants of the mandated territories. This defect was particularly serious in the case of petitions for the redress of grievances arising out of acts of the Mandatory Power. " [5] Furthermore, the Permanent Mandates Commission lacked the authority to conduct investigation in mandated territories directly through agents of its own selection. This defect unduly hampered the efforts of the Permanent Mandates Commission to protect the rights and safeguard the interests of the indigenous inhabitants.

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5. Authur N. Holcombe Dependent Areas in the Post-war World. World Peace Foundation, Boston, 1941. 71-75

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# CHAPTER V

## FORMATION OF INTERNATIONAL TRUSTEESHIP SYSTEM

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The Second World War brought new aspirations to the peoples of non-self-governing territories and those territories have developed, under the war, a new phase of strategic and economic importance. The Allied Powers affirmatively expressed their concern for the well-being of "all men of all lands".[1] New machinery, replacing the old mandates system, for non-self-governing territories constituted one aspect of the new world organization, the United Nations.

### 1. Secretary Hull's Proposal

Secretary Hull, in March 1943, submitted to President Roosevelt certain proposals on non-self-governing territories.[2] These proposals, which were endorsed by the President, stated that those dependent peoples who desire independence should have the opportunity to attain that status and that it was the duty of those United Nations responsible for the future

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1. The Atlantic Charter, 1941, See Non-Self-Governing Territories, United Nations Publications, VI BI, 1948.
2. McKay, V. International Trusteeship: Role of U.N. in the Colonial World, Foreign Policy Reports, May 1946.

of colonial areas to cooperate fully with the peoples of such areas in order that they might become qualified for independence. Those nations were also called upon to fix, as soon as possible, the dates upon which colonial peoples under them would be granted full independence within a system of general security. It was urged that the United Nations should establish an international trusteeship system to prepare for independence those dependent peoples who, as a result of either World War, were separated from political ties with nations formerly responsible for them.

2. Yalta Formula

The creation of a new system had been tentatively placed on the agenda of the Dumbarton Oaks Conversation on International Organization,[3] but discussion of it was postponed for further study. However, it was understood by the governments concerned that the question would be taken up later and placed on the agenda of the prospective United Nations Conference.

When President Roosevelt went to Yalta in February, 1945, he took with him several proposals concerning trusteeship and non-self-governing territories problems. At the conference it was agreed that the five states which would have permanent

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3. Report of the President on the Results of the San Francisco Conference, Department of State Publication 2349, 1945. p. 26.

seats on the Security Council should consult each other on the question of territorial trusteeship prior to the United Nations Conference. This agreement was reached on the understanding that territorial trusteeship would apply only to:[4]

a. existing mandates of the League of Nations;

b. territories to be detached from enemy states after the war; and

c. any other territory that might voluntarily be placed under trusteeship.

It was further understood that no discussion of actual territories would be undertaken at the United Nations Conference or in the preliminary consultations, and that it would be a matter for subsequent agreement as to which territories within the three categories would be placed under trusteeship.

3. San Francisco Conference

Prior to the United Nations Conference at San Francisco, April 25 to June 26, 1945, it had not been possible to convene the five-power meetings called for at Yalta. However, immediately upon the opening of the San Francisco

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4. Year Book of the United Nations, pp. 29-31; Report to the President on the Results of the San Francisco Conference, pp. 128-129.

Conference, the representatives of the United States, United Kingdom, the Soviet Union, China, and France began consultations. These five-power meetings ran concurrently with those of the Conference Technical Committee on Trusteeship.

Each of the five powers, in these consultations, submitted proposals for a system of trusteeship. Between the United States and British proposals there were substantial divergences, but the Soviet, Chinese, and French plans closely paralleled those of the United States. Since trusteeship had not been discussed at Dumbarton Oaks, there was no document to form the basis of discussion at San Francisco. Therefore, the Conference Technical Committee on Trusteeship requested the Chairman of the five-power group, Harold E. Stassen of the United States Delegation, to present to the Committee, as a guide for its discussions, a working plan, taking into account the various proposals submitted to the Conference. When this plan was submitted there points still at odds among the five powers, and it was necessary for the five-power consultations to continue throughout the Conference. The views advanced by several smaller powers interested in the proposals received serious consideration of both formal and informal discussions, during which the contributions of the Philipines, the Arab states, and Australia were particularly significant.[5]

5. Ghosts at San Francisco: Trusteeship, Christian Century, May 1945.

The proposals presented at San Francisco were primarily concerned with a trusteeship system. In the course of the debates it became evident that many non-self-governing territories would probably not to be placed under the United Nations trusteeship and that it would be desirable to establish a set of principles which all states responsible for the administration non-self-governing territories should apply in those territories. Owing to the combined efforts of the delegations of many powers, these principles were gradually evolved into a separate Section A of the plan which finally became Chapter XI of the Charter of the United Nations and was titled "Declaration Regarding Non-Self-Governing Territories".

Discussions in the five-power consultation group and in the Conference committee centered around several major issues: independence, equal treatment, security considerations, interim period, and the composition and the status of Trusteeship Council. However, all these differences were finally reconciled and agreed in conference committee and in consultation outside the committee. All these principles were implied in Chapter XII and XIII, which provide for the International Trusteeship System and the Trusteeship Council.

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# C H A P T E R VI

## DECLARATION ON NON-SELF-GOVERNING TERRITORIES

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The articles of the Charter of the United Nations which relate to non-self-governing territories break down into two separate groups. One of them is Chapter XI, which, titled "Declaration regarding non-self-governing territories," is applicable to all areas of the world which are not fully self-governing, whether they be protectorates, colonies, or other possessions or trust territories.

This Declaration is an important and far-reaching innovation in international obligations concerning non-self-governing territories. Under this chapter, those members responsible for administering any non-self-governing territory recognize that the interests of dependent peoples are "paramount" and "accept as a sacred trust the obligation to promote" their well-being by:[1]

a. insuring, "with due respect for the culture of the peoples concerned, their political, economic, social, and

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1. Article 73, The Charter of the United Nations. See Appendix II

educational advancement, their just treatment, and their protection against abuses;"

b. developing self-government, taking due account of their political aspirations, and assisting them "in the progressive development of their free political insitutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;"

c. furthering "international peace and security;"

d. promoting constructive measures of development, encouraging research, and cooperating with each other and, where appropriate, with specialized international bodies in order to achieve the social, economic, and scientific purposes set forth in article 73; and

e. transmitting regularly to the Secretary-General for information purposes, subject to security and constitutional considerations, statistical and other information concerning economic, social, and educational conditions in the territories for which they are responsible other than trust territories.

These states also agree to base their policy with respect to such territories on the "principle of good neighborliness,"2 taking due account of the interests and well-being of the other members of the world community in social, economic, and commercial matters.

2. Article 74, The Charter of the United Nations.

This Declaration was written with a clear realization among great powers that the non-self-governing territories -- because of their materials, their potentialities as markets, their manpower, their strategic locations and their very defenselessness -- are an important factor to be reckoned with in building world peace.

Members of the United Nations which administer non-self-governing territories have, however, only one definite obligation to the United Nations concerning these territories, unless they place them under the trusteeship system. They have undertaken to submit regularly to the Secretary-General, subject to security and constitutional considerations, statistical and other technical information relating to econimic, social and educational conditions in these territories. This information is analysed and summarized by the Secretary-General and his analysis and summaries are considered by the General Assembly and by a special committee established by the Assembly for the purpose.

As a result, this Declaration establishes the important principle that the political, economic, and social welfare and development of all non-self-governing peoples throughout the world is henceforth to be a matter for international concern as well as national concern. It makes great progress in the development of international responsibility concerning non-self-governing territories and brings to the

peoples of such territories a sound basis for future hope and progress.

But, where are non-self-governing territories? And how define them in proper terms? Indeed, it is not easy to give a definition of non-self-governing territories; it is necessary that the criteria to be used require careful consideration. Many criteria for making such a definition were suggested but no attempt was made to urge the adoption by the General Assembly of a formal and rigid definition of non-self-governing territories.

However, there are seventy-four non-self-governing territories which have been named, to the General Assembly, by eight members of the United Nations -- Australia, Belgium, Denmark, France, the Netherlands, New Zealand, the United States and the United Kingdom. The territories enumerated as non-self-governing territories are the following:[3]

Australia
1. Papua

Belgium
2. Belgium Congo

Denmark
3. Greenland

France
4. French Equatorial Africa
5. French Establishments in India
6. French Establishments in Oceania

3. Year-book of the United Nations, pp.571-572.

France (continued)
7. French Guiana
8. French Somaliland
9. French West Africa
10. Guadeloupe and Dependencies
11. Indochina
12. Madagascar and Dependencies
13. Martinique
14. Morocco
15. New Caledonia and Dependencies
16. New Hebrides (under Anglo-French Condomenium)
17. Reunion
18. St. Pierre and Miquelon
19. Tunisia

Netherlands
20. Curacao
21. Netherland Indies[4]
22. Tokelau Islands

New Zealand
23. Cook Islands
24. Tokelau Islands

United Kingdom
25. Aden (colony and protectorate)
26. Bahamas
27. Barbados
28. Basutoland
29. Bechanaland Protectorate
30. Bermuda
31. British Guiana
32. British Honduras[5]
33. Brunei
34. Cyprus
35. Dominica

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4. See Chapter VIII(3) of this thesis.
5. The Delegation of Guatemala stated in the Trusteeship Committee of the General Assembly on December 8, 1946 that "Guatemala did not and could not recognize British sovereignty in the territory of Belice". The Delegation of the United Kingdom stated "his government had proposed to submit the dispute to the International Court of Justice but that Guatemala had not yet accepted that proposal". The Journal of the United Nations, No. 55, December 1946.

United Kingdom (continued)

36. Falkland Islands[6]
37. Fiji
38. Gambia
39. Gibraltar
40. Gold Coast (colony and protectorate)
41. Gilbert and Ellice Islands[7]
42. Grenada
43. Hong Kong
44. Jamaica
45. Kenya (colony and protectorate)
46. Leeward Islands
47. Malayan Union
48. Malta
49. Mauritius
50. Nigeria
51. North Borneo
52. Northern Rohdesia
53. Nyasaland
54. Pitcairn Islands
55. St. Helena and Dependencies
56. St. Lucia
57. St. Vincent
58. Sarawak
59. Seychelles Islands
60. Soloman Islands protectorate
61. Singapore
62. Sierra Leone
63. Sonaliland protectorate
64. Swaziland
65. Trinidad and Tobago
66. Uganda protectorate
67. Zanibar protectorate

6. The Delegation of Argentina at the Trusteeship Committee of the General Assembly on December 11, 1946 made a reservation to the effect that the Argentine government did not recognize British sovereignty in the Falkland Islands. The Delegation of the United Kingdom made a parallel reservation, not recognizing Argentine sovereignty in these Islands. The Journal of the United Nations, No. 60, December 1946.
7. Certain of islands in the Gilbert and Ellica Islands colony are under the dispute of sovereignty between the United States and the United Kingdom, and the United States and New Zealand respectively.

United States
68. Alaska
69. American Samoa
70. Guam
71. Hawaii
72. Panama Canal Zone[8]
73. Puerto Rico
74. Virgin Islands

At present time, the non-self-governing territories, not affected by the Declaration, include those administered by countries such as Spain and Portugal, which are not members of the United Nations, and those of Italy. Japanese former Pacific Islands has been placed under the Trusteeship System; and Korea is still occupied by military governments. Germany had no territories outside of Europe.

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8. On November 14, 1946 the Delegation of Panama made a declaration the the General Assembly asserting that "although the United States has the responsibility for its administration....but the sovereignty over Canal Zone resides in the Republic of Panama." The Journal of the United Nations, No. 52, November 1946.

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# C H A P T E R VII

## INTERNATIONAL TRUSTEESHIP SYSTEM

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Whereas Chapter XI of the Charter of the United Nations is applicable to all non-self-governing territories of members of the United Nations, Chapter XII and XIII establish the international trusteeship system under the authority of the United Nations. It applies exclusively to such territories, known as trust territories, which are formally placed by agreement under the trusteeship system. In this chapter, we shall see what principles of the international trusteeship system are; what are the legal problems arising out of the interpretations of the provisions of the system; and how the international trusteeship system differentiates itself from the mandates system.

### 1. Basic Objectives

The basic objectives of the trusteeship system are:[1]

a. to further international peace and security;

b. to promote the political, economic, social, and

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1. Article 76, Charter of the United Nations.

educational advancement of the inhabitants of the trust territories and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the people concerned, as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

The principles on which the Trusteeship System is based are very similar to those which great powers undertake to apply in their government of other non-self-governing territories in the declaration on non-self- governing territories. In both cases international peace and security is

to be furthered and the political, economic, social and educational advancement of the inhabitants of the territories is to be ensured and self-government developed. However, in the case of trust territories but not of other non-self-governing territories, the Charter provides for the progressive development of the inhabitants towards independence if this be more appropriate than self-government to the particular circumstances of the territory and the wishes of the people concerned.

The aims listed among the objectives of the trusteeship system, but not mentioned in the Declaration concerning non-self-governing territories, are the encouragement of respect for human rights and fundamental freedoms for all and the encouragement of the recognition of the interdependence of the peoples of the world. Under the trusteeship system equal treatment in social, economic and commercial matters is to be ensured for all members of the United Nations and their nationals in the trust territories and equal treatment for the nationals of all members in the administration of justice.

The obligations concerning trust territories are wider and more precise than those in regard to other non-self-governing territories.[2] The terms on which the territories

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2. B. Gerig, Significance of the Trusteeship System, Annals of the American Academy of Political and Social Science, January 1948, pp. 39-47.

are administered are contained in special agreements which must be approved individually by the General Assembly, or, in the case of "strategic areas", by the Security Council. The United Nations, through the Trusteeship Council, has established machinery so that these terms of trusteeship be kept. The administering authority may be one or more states or the United Nations organization itself. Since one of the objects of the system is to further international peace and security, the administering authority may make use of volunteer forces and facilities in the trust territory to carry out its obligations to the United Nations, as well as for local defense and police purposes.

2. Legal Problems

There are several major problems arising from the interpretation of the international trusteeship system of the Charter of the United Nations. Such problems have been discussed by jurists, statesmen, and scholars.[3] Most of them still remain unanswered.

First, let us take up the problem of the location of sovereignty of the trust territories. Does the sovereignty of trust territories belong to administering authority, or

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3. See Holland, Trusteeship Aspirations, Foreign Affairs, October 1946; Goodrich, Charter of the United Nations; Wolfe, The States directly concerned, American Journal of International Law, etc.

the trust territories, or the United Nations Organization? There are long chapters on the problem of location of the sovereignty of the mandates in Quincy Wright's book.[4] But it was an unsolved problem. The international trusteeship system of international supervision and responsibility and the methods adopted were chosen with a view to avoid controversial and trouble-making questions. In the Charter of the United Nations the phrase "states directly concerned" was perhaps a bow in the direction of sovereignty.

Secondly, let us examine the problem of "self-government or independence". During the San Francisco Conference, Chinese and Soviet delegates took the position that a forthright statement of independence as goal for all non-self-governing territories should be included in the political objectives of trusteeship system. Other delegates felt that there were some dependent territories which, because of some reason or other, would never become entirely independent. The proposal of the United States aimed at self-government which included independence for those people capable of assuming the responsibilities involved. And it was finally agreed in the form of Article 76(d), which was more progressive and far-reaching within the realm of governing non-self-governing territories

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4. Wright, Quincy, Mandates under the League of Nations, Chicago, 1932. Chapter IX and X, pp. 265-344.

than was ever before attempted. The idea of human freedoms and the international accountability was written into a binding international agreement. "Self-government," the United States explained,[5] "may take the form of local authonumy within a larger association of some kind; it may take the form of assimilation to a sovereign state."

It becomes evident that the progress of the peoples of non-self-governing territories toward self-government or independence implies a variety of goals. Indeed, a sudden independence for all non-self-governing territories would not necessarily benefit those peoples; it might retard their development, injure their safety, and create confusion and chaos in many parts of the world.

Thirdly, there is the problem of "equal treatment". This embodies a deep-rooted American ieal -- the elimination of discriminatory practices in economic and commercial relations, especially expressed at various times as the "open door" policy. The principle of equal treatment was incorporated in the basic objectives of the trusteeship system with the provision that its application be "without prejudice to the attainment of the foregoing objectives" of the trusteeship system "and subject to the provisions of Article 80" left unaffected the position of "C", except as this position might be

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5. Reports by the President to the Congress, Department of State Publication, No. 2357 and 3024.

altered in the terms of the trusteeship agreements placing "C" mandates under the trusteeship system.[6]

Fourthly, there is the problem of termination of a trust territory. The Charter of the United Nations, like the Covenant of the League of Nations, makes no specific provision for the termination of a trusteeship agreement. However, by studying the provisions, it is fair to assume that an agreement may be terminated under Article 79, which states that the terms of trusteeship, "including any alteration or amendment," shall be agreed upon by the states directly concerned and approved by either the General Assembly or the Security Council. None of the nine agreements approved by the General Assembly contains any special provision with regard to termination other than that the agreement may not be altered or amended except in accordance with Article 79.[7] The United States trusteeship agreement for the former Japanese mandated islands contains, however, a specific provision in Article 15, that "the terms of the present agreement shall not be altered, amended, or terminated without the consent of the administering authority."[8]

3. A Comparison

The trusteeship system of the United Nations makes

6. op. cit. United Nations Year-book, pp.573-589.
7. See chapter IX of this thesis.
8. op. cit. United Nations Year-book, Trusteeship Agreement for the Japanese Mandated Islands, pp. 394-398,576n.

many substantial advances over the former mandates system. The League Covenant stated that "the well-being and development" of peoples of mandated territories form a "sacred trust of civilization" and that "the tutelage of such peoples should be entrusted to advanced nations who by reason of their experience or their geographical position can best undertake this responsibility". However, the Charter of the United Nations makes a more positive approach to the problem in that it calls specifically for the promotion of the advancement of the peoples of trust territories, their development toward self-government or independence, and the encouragement of respect for human rights and fundamental freedoms without discrimination.

The new system also more realistic in providing for security arrangements. It calls on each administering authority to insure that the territory it administers shall play its part in maintaining world peace and security.

Whereas the mandates system was established to provide only for those colonies and territories separated from Germany and Turkey as a result of the World War I, the trusteeship system is not limited to specified territories formerly belonging to enemy but in theory it is open to any territory placed under the system of trusteeship agreement.

The international trusteeship system contains no arbitrary and fixed classification of territories, such as

A, B, and C mandates, but lends itself to far greater flexibility in administration. Under the trusteeship system, a separate trusteeship agreement is drawn up for each territory so that it will be dealt with according to its own individual circumstances. This principle recognizes the diversity of problems with respect to population, economy, culture, resources, location, and stage of development which exist in each territory.

The trusteeship system provides for several possible forms of administering authority, one or more states or the United Nations itself.

In contrast to the mandates system, which demilitarized the mandated territories, the trusteeship system provides that each territory "shall play its part in the maintenance of international peace and security," and that all or part of a trust territory may be designated as strategic area.

The Trusteeship Council is made a principal organization of the United Nations, whereas the Permanent Mandates Commission was subsidiary body of the League Council, experts appointed by the League "to receive and to advise .... on all matters relating to the observance of the mandates."[9] The Trusteeship Council, on the other hand, speaks authoritatively for the

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9. Article 22 of the Covenant of the League of Nations, paragraph 9, see Appendix I of this thesis.

governments concerned. It is the governments themselves, acting through their chosen representatives sitting in the Trusteeship Council, which should be able to perform its functions realistically.

One vital power of the Trusteeship Council, which was never accorded to the Permanent Mandates Commission, is that of making periodic visits to trust territories. Such visits can have a far-reaching effect. To the inhabitants of the trust territories a visiting mission gives concrete reality to the United Nations and its living concern in their welfare. To the administering authorities such visits are bound to quicken the sense of their responsibility and accountability to the United Nations. To the Trusteeship Council and especially to the members of the visiting mission, such first-hand contacts give tremendous vitality to their work, and bring home, as nothing else can, the realities and the possibilities of the Council's stakes.

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# CHAPTER VIII

## TRUST TERRITORIES

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The international trusteeship system is applicable, not to all non-self-governing territories, but to such territories as are formally placed under trusteeship by agreement. Trust territories are different from former mandates and from other non-self-governing territories too. According to the Charter of the United Nations, a "strategic area" is quite different from other trust territories.

### 1. What is a trust territory

"A trust territory is a territory specifically placed under the international trusteeship system of the United Nations by the authority responsible for administering it."[1] This is done by means of an agreement which is drawn up for each individual territory. The agreement states what country or countries are to administer the territory, and what the rights and duties of that country are. It may name the United Nations

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1. Trusteeship for Non-Self-Governing Territories, United Nations Weekly Bulletin, November 1947.

itself as the administering authority. The terms of trusteeship have to be agreed to by the "states directly concerned" and the agreement must be approved by the General Assembly, unless the territory is classed as a "strategic area", in which case the agreement must be approved by the Security Council.

Three kinds of non-self-governing territories may be placed under the trusteeship system:[2]

a. territories now held under mandate;

b. territories which may be detached from enemy states as a result of the World War II; and

c. territories voluntarily placed under the system by states responsible for their administration.

So far ten territories have been placed under the trusteeship system:[3]

| Administering Authorities | Trust Territories |
|---|---|
| Australia | New Guinea<br>Nauru[4] |
| Belgium | Ruanda-Urundi |
| France | French Cameroons<br>French Togoland |
| New Zealand | Western Samoa |
| United Kingdom | British Cameroons<br>British Togoland<br>Tanganyika |

2. Article 77, The Charter of the United Nations.
3. Year-book of the United Nations, 1947, pp.573-574.
4. Nauru is administered by Australia on behalf of Australia, New Zealand, and the United Kingdom.

| Administering Authorities | Trust Territories |
| --- | --- |
| United States | Marshalls, Marianas, and Carolines |

The last one, administered by the United States, has been designated a "strategic area".

2. Trust Territories and Mandates

The League of Nations mandates were divided into three categories: "A", "B" and "C", according to their stage of development. Trust territories are dealt with individually, according to the conditions and needs of each territory.

Mandates were the territories detached from the enemy as a result of the World War I. Trust territories may be ex-enemy territories, former mandates or territories voluntarily placed under the trusteeship system.

All "A" mandates -- Iraq, Trans-Jordan, Palestine, Syria and Lebanon -- were declared independent during past two decades. All "B" and "C" mandates have been placed under the trusteeship system except South West Africa. The Union of South Africa has explained to the General Assembly the reasons why it does not wish to place the mandate South West Africa under trusteeship. The Assembly recommended that the Union should submit a trusteeship agreement for the territory.[5]

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5. United Nations Weekly Bulletin, November 11, 1947.

All trust territories are placed under the same adiministering authorities, as they were called mandatory powers, except one trust territory -- Marshall, Caroline and Mariana Islands -- which is administered by the United States.

Trust territories are only small part of all non-self-governing territories. The former is supervised by the Trusteeship Council and administered by various great powers. The latter is loosely responsible by the members of the United Nations under the declaration on non-self-governing territories.

3. Strategic Area or Areas

Under the Charter of the United Nations, two types of trust territories are provided for non-strategic and strategic. The terms of trusteeship for areas designated as strategic must be approved by a decision of the Security Council concurred in by all permanent members.[6] For those areas not designated as strategic, the trusteeship agreements are approved by a two-thirds vote of the General Assembly.

In both types of trust territories the same basic objectives (article 76) are applicable to the people of the territories. In both types of trust territories the same obligation is laid upon the adminsitering authority to insure

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6. Articles 82 and 83, the Charter of the United Nations.

that the territory shall play its part in the maintenance of international peace and security, including entering into special agreements under the article 43. Apart from this obligation, the terms of trusteeship, within the basic objectives and commitments set forth in the Charter of the United Nations, are those that are written into the trusteeship agreement.

The Charter provides that the Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform trusteeship functions "relating to political, economic, social and educational matters in the strategic areas".[7]

The agreement for the former Japanese mandated islands proposed by the United States and approved by the Security Council on April 2, 1947, is for a strategic area.

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7. Article 83, the Charter of the United Nations.

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# CHAPTER IX

## TRUSTEESHIP AGREEMENTS

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According to the Charter of the United Nations, a territory as defined by Article 77 may be placed under the international trusteeship system by means of individual trusteeship agreement. After prolonged discussions, ten agreements have been approved by the General Assembly or by the Security Council of the United Nations. This chapter will indicate how these trusteeship agreements were approved and what their provisions are.

### 1. Approval of the General Assembly

In its resolution on non-self-governing peoples of February 9, 1946, the General Assembly invited states admininstering territories under the League of Nations mandates to undertake practical steps for the implementation of Article 79 of the Charter of the United Nations by submitting trusteeship agreements for approval of the General Assembly, preferably not later than during the second part of its first session.

In pursuance of this resolution, draft trusteeship agreements for eight of the mandated territories were submitted

to second part of the first session of the General Assembly for approval. The agreements were communicated by the governments of Australia for new Guinea, of Belgium for Ruanda-Urundi, of France for the Cameroons and Togoland, of New Zealand for Western Samoa, of the United Kingdom for Tanganyika, Cameroons and Togoland. The General Assembly then referred these proposed trusteeship agreements to its Fourth Committee for consideration.

In the discussion, a considerable number of representatives expressed the view that the eight trusteeship agreements submitted by administering authorities were susceptible of improvement in a number of ways. On the other hand, these representatives were of the opinion that the agreements contained no violation of the fundamental principles of the Charter. Considering the early establishment of the Trusteeship Council to be most urgent consideration, these representatives urged approval of the proposed agreements despite certain imperfections.

Following the general discussion, the Fourth Committee on November 14, 1946 appointed a sub-committee of 17 members to examine the eight proposed agreements and make recommendations to the committee on them. The sub-committee held 28 meetings; in the course of its deliberations, it considered 229 proposed modifications of the text of these agreements. All members of the Fourth Committee not represented on the sub-committee

were given the opportunity to propose modifications.

The sub-committee, following its article-by-article examinations of the eight agreements, decided at its 25th meeting to recommend to the Fourth Committee approval of the agreements with the exception of the preambles. The preambles to the trusteeship agreements involved the question of "states directly concerned," on which the sub-committee failed to reach agreement in the course of its prolonged discussions. At its 27th meeting the sub-committee approved a proposal of the delegation of the United States to the effect the following recommendation on the subject of "states directly concerned" be included in the report of the Rapporteur of the Fourth Committee. Approval of any terms of trusteeship by this session of the General Assembly should be on the following understanding with respect to "states directly concerned". All members of the United Nations have had an opportunity to present their views with reference to the terms of trusteeship agreements, now proposed to the General Assembly for approval. There has, however, been no specification by the General Assembly of "states directly concerned" in relation to the proposed trust territories. Accordingly, the General Assembly in approving the terms of trusteeship agreements does not prejudice the question of what states are or are not "directly concerned" within the meaning of Article 79. It recognizes that no state has waived or prejudiced its right hereafter to claim to be

such a "states directly concerned" in relation to approval of subsequently proposed trusteeship agreements and any alteration or amendment of those now approved, and that the procedure to be followed in the future with reference to such matters may be subject to later determination.

The sub-committee then considered preambles for eight agreements, which omitted mention of Article 79. At its last meeting the sub-committee approved the preambles of the eight agreements by a vote of 13 to 2, with 2 abstentions.

The Fourth Committee considered the report of the sub-committee from December 8 to 12, 1946. At its 26th meeting on December 11, the Fourth Committee, by a separate vote, approved the eight trusteeship agreements. The vote in each case was 35 to 8. The U.S.S.R. and her satelites were against them. At the 61st and 62nd plenary meetings on December 13, 1946, the General Assembly considered the report of the Fourth Committee. The representative of the U.S.S.R. expressed the view that the draft trusteeship agreements submitted for approval by the General Assembly violated the fundamental provisions of the Charter of the United Nations regarding the trusteeship system. The U.S.S.R. representative therefore submitted a resolution calling the General Assembly to reject the draft agreements. Nevertheless, the General Assembly rejected this resolution sponsored by the Soviet representative by a vote of 34 to 6, with 11 abstentions.

Voting separately on each agreement, the General Assembly then approved the eight trusteeship agreements by the following votes:

British Cameroons and Togoland, New Guinea, Ruanda-Urundi, Tanganyika and Western Samoa -- 41 to 6 with 5 abstentions.

French Cameroons and Togoland -- 41 to 5 with 6 abstentions.

The General Assembly approved separately the following eight trusteeship agreements:

a. Trusteeship agreement for the territory of Togoland under British administration;

b. Trusteeship agreement for the territory of Cameroons under British administration;

c. Trusteeship agreement for the territory of Tanganyika;

d. Trusteeship agreement for the territory of New Guinea;

e. Trusteeship agreement for the territory of Togoland under French administration;

f. Trsuteeship agreement for the territory of Cameroons under French administration;

g. Trusteeship agreement for the territory of Ruanda-Urundi; and

h. Trusteeship agreement for the territory of Western Samoa.

The General Assembly of the United Nations approved its nineth trusteeship agreement on November 1, 1947 when it accepted by a vote of 46-6, with 1 abstention, the agreement for the southwest Pacific island of Nauru submitted by the United Kingdom, Australia, and New Zealand, who have been administering jointly under the League of Nations mandate since 1920.

2. General Provisions

In each of those first eight trusteeship agreements, a single state was designated as the administering authority. But, the trusteeship agreement for the territory of Nauru is the first agreement providing for administration by more than one member states. The terms of the nine agreements are similar to each other. In general, the terms of the nine trusteeship agreements relate to the following:

a. Definition of the boundary of each territory to be placed under the international trusteeship system.

Article 1 of the trusteeship agreement for the territory of Tanganyika provides: The territory to which this agreement applies comprises that part of East Africa lying within the boundaries defined by Article 1 of the British mandate for East Africa, and by the Anglo-Belgian Treaty of Novermber 22, 1934, regarding the boundary between Tanganyika and Ruanda-Urundi.

b. Designation of the administering authority of the trust territory. For examples,

> "The Government of Australia ( hereinafter called the Administering Authority) is hereby designated as the sole authority which will exercise the sole authority which will exercise the administration of the Territory." ---- Article 2 of the Trusteeship agreement for the territory New Guinea

> " By the present Agreement the Belgian Government is designated as Administering Authority for Ruanda-Urundi in accordance with Article 75 of the Charter. The said Government shall assume responsibility for the administration of the said Territory." --- Article 2 of the Trusteeship Agreement for the Territory of Ruanda-Urundi

c. The obligations of the administering authority under Article 76 of the Charter of the United Nations.

Article 3 of the trusteeship agreement for the territory of Togoland under British Administration requires the administering authority to undertake:

> " to administer the Territory in such manner as to achieve the basic objectives of the International Trusteeship System laid down in Article 76 of the United Nations Charter."

The Administering Authority further undertakes

> " to collaborate fully with the General Assembly of the United Nations and the Trusteeship Council in the discharge of all their functions as defined in Article 87 of the United Nations Charter, and to faciliate any periodic visits to the Territory which they may deem necessary, at terms to be agreed upon with the Administering Authority."

d. The rights of the administering authority in legislation, administration and jurisdiction, in constituting the trust territory into a customs, fiscal or administrative

union with adjacent territories under the control of the administering authority and, in establishing naval, military and air bases.

Article 4 of the trusteeship agreement for the territory of Togoland under French administration provides:

> "The administering Authority shall:
>
> 1. Have full powers of legislation, administration and jurisdiction in the Territory and shall administer it in accordance with French law as an integral part of French territory, subject to the provisions of the Charter and of this Agreement;
>
> 2. Be entitled, in order to ensure better administration, with the consent of the territorial representatives Assembly, to constitute this Territory into a customs, fiscal or administrative union or federation with adjacent territories under its sovereignty or control and to establish common services between such territories and the Trust Territory, provided that such measures should promote the objectives of the International Trusteeship System;" and the administering authority may:
>
> 3. establish on the Territory military, naval or air bases, station national forces , and raise volunteer contigents therein....."

e. Promotion of the development of political institutions suited to the Trust Territory. In the trusteeship agreement for the territory of Cameroons under British administration, Article 6 provides as following:

> " The Administering Authority shall promote the development of free political institutions suited to the Territory. To this end the Administering Authority shall assume to the inhabitants of the Territory a progressively increasing share in the administrative and other services of the Territory; shall develop the participation of the

> inhabitants of the Territory in advisory and legislative bodies and in the government of the Territory, both central and local, as may be appropriate to the particular circumstances of the Territory and its peoples; and shall take all other appropriate measures with a view to the political advancement of the inhabitants of the Territory in accordance with Article 76(b) of the United Nations Charter....."

f. Promotion of the provisions of general international conventions and recommendations drawn up or to be drawn up by the specialized agencies referred to in Article 57 of the Charter. For instance,

> " The administering Authority undertakes to apply in Tanganyika the provisions of any international conventions and recommendations already existing or hereafter drawn up by the United Nations or by the specialized agencies referred to in Article 57 of the Charter, which may be appropriate to the particular circumstances of the Territory and which would conduce to the achievement of the basic objectives of the International Trusteeship System." ------ Article 6 of the Trusteeship Agreement for the Territory of Tanganyika

g. Promotion of the rights and interests of the inhabitants in land and natural resources. Article 8 of the trusteeship agreement for the territory of Western Samoa provides:

> " In framing the laws to be applied in Western Samoa, the Administering Authority shall take into consideration Samoan customs and usages and shall respect the rights and safeguard the interests, both present and future, of the Samoan population. " In particular, the laws relating to the holding or transfer of land shall ensure that no native land may be transferred save with the prior consent of the competent public authority and that no right over native land in favour of any person not

a Samoan may be created except with the same consent."

h. Equal treatment in social, economic, and commercial matters for all members of the United Nations.

Article 8 of the trusteeship agreement for the territory of Togoland under French administration provides:

" Subject to the provisions of the following article, the Administering Authority shall take all necessary steps to ensure equal treatment in social, economic, industrial and commercial matters for all States Members of the United Nations and their nationals, and to this end:

"1. Shall grant to all nationals of Members of the United Nations freedom of transit and navigation, including freedom of transit and navigation by air, and the protection of person and property, subject to the requirements of public order, and on condition of compliance with local law;

"2. Shall ensure the same rights to all nationals of Members of the United Nations as to its own nationals in respect of entry into and residence in the Territory, acquisition of property, both movable and inmovable, and the exercise of professions and trades;

"3. Shall not discriminate on ground of nationality against nationals of any Member of the United Nations in matters relating to the grant of concession for the development of the natural resources of the Territory, and shall not grant concessions having the character of a general monopoly;

"4. Shall ensure equal treatment in the administration of justice to the nationals of all Members of the United Nations.

" The rights conferred by this Article on nationals of States Members of the United Nations apply equally to companies and associations controlled by such nationals and formed in accordance with the law of any Member of the United Nations .

"Nevertheless, pursuant to Article 76 of the Charter, such equal treatment shall be without prejudice to the attainment of the trusteeship objectives as prescribed in the said Article 76 and particularly in paragraph (b) of that Article.

"Should special advantages of any kind be granted by a power enjoying equality of treatment referred to above to another power, or to a territory whether self-governing or not the same advantages shall automatically apply reciprocally to the trust territory and to its inhabitants, especially in the economic and commercial field."

i. Promotion of educational and cultural development of the inhabitants. It will be the duty of the administering authority to promote the political, economic, social, and educational advancement of the inhabitants of the territory and to maintain peace, order and good government. The administering authority shall in particular be free, with the consent of the territorial representative assembly to organize essential public services. And,

"The administering authority shall develop the system of elementary education in the trust territory in order to reduce the number of illiterates, to train the inhabitants in manual skill, and to improve the education of the population. The administering authority shall, so far as possible, provide the necessary facilities to enable qualified students to receive higher education, more especially professional education." -- Article 12 of the trusteeship agreement for the territory of Ruanda-Urundi.

j. Assurance of freedom of religion and freedom of speech. Article 13 of the trusteeship agreement for the territory of Ruanda-Urundi provides:

"The administering authority shall ensure throughout the trust territory complete freedom of conscience, freedom of religious teaching and the free exercise

> of all forms of worship which are consistent with public order and morality; all missionaries who are nationals of any state member of the United Nations shall be free to enter, travel and reside in the trust territory, to acquire and possess property, to erect religious buildings and to open schools and hospitals therein. The provisions of the present article shall not, however, affect the duty of the administering authority to exercise such control as may be necessary for the maintenance of public order and good government and also the equality and progress of education."

And the Article 14 of the same agreement provides as following:

> "Subject only to the requirements of public order, the administering authority shall guarantee to the inhabitants of the trust territory freedom of speech, of the press, of assembly, and of petition."

k. Annual reports to the General Assembly by the administering authotity on the basis of a questionnaire formulated by the Trusteeship Council in accordance with Article 88 of the United Nations Charter.

Article 16 of the trusteeship agreement for the territory of Tanganyika requires the administering authority to make to the General Assembly of the United Nations:

> "an annual report on the basis of a questionnaire drawn up by the Trusteeship Council in accordance with Article 88 of the United Nations Charter. Such reports shall include information concerning the measures taken to give effect to suggestions and recommendations of the General Assembly and the Trusteeship Council. The administering authority shall designate an accredited representative to be present at the sessions of Trusteeship Council at which the reports of the administering authority with regard to Tanganyika are concerned."

1. And lastly, the approval of the General Assembly of the agreement and of any alteration or amendment thereof by the General Assembly. For instance,

> "The terms of this agreement shall not be altered or amended except as provided in Article 79 of the Charter of the United Nations." -- Article 15 of the trusteeship agreement for the territory of Western Samoa

3. Agreement for a Strategic Area

The Security Council on April 2, 1947 unanimously approved a draft agreement for former Japanese-mandated islands in the Pacific as a strategic area -- the Marshalls, Marianas, and Carolines.[1]

The agreement was submitted to the Security Council by the United States Representative on February 26, 1947. In doing so, the United States declared:

> "The American people are resolved that this idea shall never again be used as a springboard for aggression against the United States or other member of the United Nations.
>
> "Most of the strategically important areas in the world, including those in the Pacific, are at present under the exclusive sovereignty of various powers of the larger nations. The United States,

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1. Three groups of islands: the Marshalls includes Kwajelein, Eniwetok, Majuro, etc.; the Marianas includes Saipan, Tinian, etc.; the Carolines includes Kusaie, Ponape, Truk, Ulithi, Yap, Palaus, etc.. The island groups consist of some 98 islands and island clusters with a total mass of 846 square miles, a total population of about 48,000 native inhabitants. See United Nations Bulletin, March 9, 1947, p.416.

"however, is proposing trusteeship rather than annexation as the basis for its administration of these highly strategic islands.

"In undertaking to place under trusteeship a territory of such strategic importance to the United States as these islands, the United States is expressing its faith in the United Nations.

"Our purpose is to defend the security of these islands in manner that will contribute to the building up of genuine, effective, and enforceable collective security for all members of the United Nations."[2]

The final acceptance of the agreement without substantial changes was reached only after full acceptance of the United States view that the matter of trusteeship for the former Japanese mandated islands does not depend upon, and need not await, the peace settlement with Japan.[3]

The agreement designates the territory of these islands as a strategic area and the United States as the administering authority. It came into force on July 18, 1947 after approved by the Government of the United States by "due constitutional process".

The agreement is the first to be approved under Article 83 of the Charter of the United Nations, which provides that all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship

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2. Sayre, F.B. American Trusteeship Policy in the Pacific, Academy of Political Science Proceedings, January 1948, pp. 406-416.
3. Trusteeship versus Annexation; Controversy over the Future of the former Japanese-mandated Islands, America, November 1946, pp. 147-152.

agreements and of their alteration or amendment, are to be exercised by the Security Council.

In doing so, the Security Council must -- subject to the provisions of the agreement without prejudice to security considerations -- avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters.

The preamble of the trusteeship agreement for the territory of the Pacific islands states that the Council of the League of Nations on December 17, 1920 had confirmed a mandate to be administered in accordance with Article 22 of the Covenant of the League of Nations, and that Japan, as a result of the World War II, had ceased to exercise any authority in those islands. Article 1 and 2, designated the islands as a strategic area, placing them under the trusteeship system and naming the United States as the administering authority will have full power of administration, legislation and jurisdiction over the territory, subject to the provisions of the agreement. The administering authority may apply to the trust territory, subject to any modification which it may consider desirable, such of the laws of the United States as it may deem appropriate to the local conditions and requirements. Article 4 provides that the administering authority must act in accordance with the Charter of the United Nations

and the provisions of the agreement, and must apply the objectives of the international trusteeship system to the people of the trust territory. Article 5 requires the administering authority to ensure that the trust territory must play its part in the maintenance of international peace and security. For this purpose the administering authority is entitled to establish naval, military and air bases and to erect fortifications in the trust territory; to station and employ armed forces, facilities and assistance from the territory in carrying out the obligations towards the Security Council undertaken in this regard, as well as for the local defence and the maintenance of law or order within the territory. Article 6 provides that in discharging its obligations under Article 76(b) of the Charter of the United Nations, namely, to promote the political, economic, social and educational advancement of the inhabitants and their progressive development to self-government or independence, the administering authority must:

a. foster the development of such political institutions as are suited to the inhabitants toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples concerned. To this end the administering authority must give to the inhabitants a progressively increasing share in the administrative service in the territory; development of their participation

in government; give due recognition to the customs of the inhabitants in providing a system of law for the territory, and take other appropriate measures.

b. promote the economic advancement and self-sufficiency of the inhabitants, and to this end regulate the use of natural resources; encourage the development of fisheries, agriculture and industries; protect the inhabitants against the loss of their lands and resources, and improve the means of transportation and communication.

c. promote the social advancement of the inhabitants and to this end protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spiritous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses.

d. promote the educational advancement of the inhabitants, and to this end take steps toward the establishment of a general system of elementary education; faciliate the vocational and cultural advancement of the population; and encourage qualified students to pursue higher education, including training on the professional level.

The agreement further provides: the administering authority shall guarantee to the inhabitants of the trust

territory freedom of conscience, freedom of speech, of the press, of assembly, of worship and of religious teaching; and freedom of migration and movement.[4] The administering authority must accord to nationals of each member of the United Nations and to companies, and associations treatment in the trust territory no less favorable than that accorded there to nationals, companies and associations of any other member of the United Nations except the administering authority.[5] The administering authority may negotiate and conclude commercial and other treaties and agreements for the trust territory.[6] The administering authority is entitled to constitute the trust territory into a customs, fiscal or administrative union of federation with other territories under the United States jurisdiction.[7] The administering authority may take necessary steps to provide the status of citizenship of the trust territory for its inhabitants and to afford diplomatic and consular protection to them.[8]

And finally, the agreement provides that the terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority;[9]

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4. See Trusteeship Agreement for the territory of the Pacific Islands, Article 7.
5. Ibid., Article 7.
6. Ibid., Article 8.
7. Ibid., Article 9.
8. Ibid., Article 11.
9. Ibid., Article 15.

and that the agreement is to come into force when approved by the Security Council and by the Government of the United States after due constitutional process.[10]

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10. Article 16, Trusteeship agreement for the territory of the Pacific Islands.

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# CHAPTER X

## TRUSTEESHIP COUNCIL

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The Trusteeship Council is one of the principal organs of the United Nations. In this chapter, we shall examine the composition of the Trusteeship Council, its functions and powers, and then try to indicate the fault in its membership structure and examine the process by which this council was organized under the United Nations.

### 1. Composition

The membership of the Trusteeship Council is equally divided between states which are administering trust territories and states which do not, but it must include the five big powers.

The Trusteeship Council consists of three categories of members:

a. Members of the United Nations administering trust territories;

b. Members of the United Nations mentioned by name in Article 23, that is, the original permanent members of the Security Council, which are not administering trust territories, and

c. as many additional members elected for three-year terms by the General Assembly as may be necessary to make the number of members administering trust territories equal to the number which are not. [1]

Thus, the Trusteeship Council contains the responsible authorities, the administering states; the great powers, which have the power to ensure that the trust territories play their part in the maintenance of peace and security; and a number of independent states elected by all the United Nations, which can see that the interests of the inhabitants of the territories are not sacrificed to any special interests of the administering authorities or to great-power politics.

Moreover, the Charter of the United Nations lays down that each member of the Trusteeship council is to name a specially qualified person to represent it on the Council so that the Council in its deliberations will be familiar with the problems it is discussing.

By careful study, we can see the manner in which the Trusteeship Council is constituted under Article 86 may lead to considerable difficulty. Trouble in constituting the Trusteeship Council according to the terms of its membership and its voting power may be avoided only as long as there exists a sufficient number of territories to be administered.

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1. Article 86, the Charter of the United Nations.

Should the number of territories to be administered be reduced to a few, conditions may well arise which would make the compliance with the composition and the voting power impossible. Obviously the following conditions are possible: When the number of members administering trust territories are four or less and none of such members are any of the said permanent members mentioned by name in Article 23; or when the number of members administering trust territories are two or less, and both of them, in the event there are two, being two of the five permanent members mentioned by name in Article 23, or, if there is one member administering a trust territory and that one is of the five permanent members; or when there are no trust territories at all.

The faults described above may be removed and the solution appears to lie as a choice between two alternatives: the first is for one or more, if necessary, of the five permanent members not administering trust territories to give up or relinquish its sovereignty and refrain from voting. This arrangement would then serve to balance the voting power equally between the members which administer trust territories and those which do not. The second alternative appears to point in the direction of an amendment to Article 89 which would provide for a change in the voting power in the event of a dis-equilibrium in the number of members as between those administering trust territories and those which do not.

In the situation when there may be no trust territories to be administered, an amendment applicable to Article 86 should be passed establishing and reorganizing the Trusteeship Council on the basis of all non-self-governing territories. Considering the fact that the " basic objectives of the trusteeship system" as described in Article 76 of Chapter XII is " to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence...." it is quite conceivable that the number of trust territories to be administered shall begin to diminish and that gradually the conditions illustrated above may all in turn arise.

2. Its Establishment

On December 14, 1946, the United Nations General Assembly completed the action necessary to bring into existence the Trusteeship Council.

Under Article 86(a) of the United Nations Charter, Australia, Belgium, France, New Zealand and the United Kingdom became members of the Trusteeship Council by virtue of the fact that they were named administering authorities under the eight trusteeship agreements approved by the General Assembly on Friday, December 13, 1946.

China, the United States and the Soviet Union became ex-officio members of the Trusteeship Council in accordance with Article 86(b) of the Charter, which provides that those permanent members of the Security Council that are not administering trust territories shall be members of the Trusteeship Council.

On December 14, 1946, the General Assembly in accordance with the provision of Article 86(c) elected two states, Mexico and Iraq as non-administering members.[2]

Thus the Trusteeship Council was organized as follows:

a. States administering trust territories--Australia, Belgium, France, New Zealand, and the United Kingdom;

b. Permanent members of the Security Council not administering trust territories---- China, the United States, and the Union of Soviet Socialist Republics.

c. Members elected for three -year terms by the General Assembly---- Mexico and Iraq.

The General Assembly adopted a further resolution directing the Secretary-General to convene the first meeting of the Trusteeship Council not later than March 15, 1947. Finally the Trusteeship Council convened in its first session on March 26, 1947.

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2. The Soviet Union did not participate in these elections because it considered that the trusteeship agreements were contrary to the Charter and therefore did not constitute a legal basis for voting.

After the Security Council approved the trusteeship agreement submitted by the Government of the United States for former Japanese mandated islands as a strategic trust territory, the Trusteeship Council was reorganized on December 1947 accordance to the provisions of the Charter of the United Nations. The present members of the Trusteeship Council are:

a. States administering trust territories---- Australia, Belgium, France, New Zealand, the United Kingdom, and the United States;

b. Ex-officio as permanent members of the Security Council ---- China and U.S.S.R.

c. States elected for three-year terms of office by the General Assembly---- Iraq, Mexico, Costa Rica, and the Philippines.

3. Functions and Powers

After a trusteeship agreement has been approved by the General Assembly or Security Council the administration and supervision of the territory covered by the agreement is henceforth an international concern. The administering authority exercises the rights and duties conferred by the Charter and the trusteeship agreement and in the case of non-strategic territories is responsible, through the Trusteeship Council, to the United Nations for the manner in which it administers the territory.

Under the authority of the General Assembly of the United Nations, the Trusteeship Council may: [3]

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective Trust Territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

Furthermore, the Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon basis of such a questionnaire.[4]

By the terms of the provision mentioned above, each administering authority is obligated to make an annual report to the General Assembly upon the administration of the territory for which it is responsible. In order to secure uniform reports and to be certain that all the points upon which information is desired are covered, the Trusteeship Council is given the power to formulate a questionnaire

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3. Article 87, the Charter of the United Nations
4. Article 88, Ibid.

upon which the report of administering authority is to be based. At its first session in March 1947 the Trusteeship Council drew up a provisional questionnaire on the basis of which it was suggested administering authorities should base their reports. This questionnaire contains 247 questions listed under the following 12 main headings: brief introductory descriptive section, status of the territory and its inhabitants, international and regional relations, international peace and security and the maintenance of law and order, political advancement, economic advancement, educational advancement, publications, research, suggestions and recommendations, summary, and conclusion. These main headings cover a variety of different subjects. [5] Many of the questions are detailed. For example, question 19 on theMaintenance of Law and Order asks:

> " What forces are maintained for internal order and what is their organization, method of recruiting , conditions of service, nationality, equipment and facilities? What is the annual expenditure on the maintenance of internal law and order? What arms and ammunition were imported for local purposes during the year?"

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5. For instance, Economic Advancement includes public finance, money and banking, taxation, commerce and trade, monopolies, land and natural resources, forests and mines, agriculture, fisheries and animal husbandry, industry, investments, transports and communications and public works. Social Advancement includes social conditions, standards of living, status of women, human rights and fundamental freedoms, labor conditions and regulations, public health, sanitation, drugs, alcohol, and spirits, population, social security and welfare, housing and town planning, and penal organization.

In addition, the questionnaire calls for statistical material to be furnished each year on: population, administrative structure of government, justice and penal administration, public finance, taxation, trade, enterprises and business organizations, housing, production, labor, cost of living, public health and education.

The General Assembly and the Trusteeship Council may provide for periodic visits to non-strategic trust territories for purposes of inquiring about the nature of the administration and the progress being made by the inhabitants. Petitions from any source, whether within or outside the trust territory, may be submitted to the General Assembly and the Trusteeship Council for their consideration.

The Trusteeship Council appointed a three-member commission which visited Western Samoa in July and August 1947 and studied conditions there. It adopted a unanimous report to the Trusteeship Council, and outlined certain recommendations. These included: a larger measure of local self-government for Western Samoa through the establishment of a " Government of Western Samoa", the creation of Council of State composed of one representative of New Zealand and one( or more, acting jointly) representative of the people of Samoa, and the replacing of the present Legislative Council by a Legislative Assembly in which the Samoans would have an absolute majority. The Mission also made recommendations concerning such matters

as village and district government, the constitutional recognition of Samoan customs and traditions, the eventual abolition of legal distinctions between residents of " European" and "Samoan" status, the achievement of racial equality, the establishment of a Public Service of Western Samoa, and improved services in the fields of education and health as well as the development of Western Samoa's economic resources. Just before the Mission left Western Samoa, the New Zealand Government outlined its plans for the new government of the territory. The Mission noted with satisfaction in its report that these plans were closely in line with its recommendations.

Other outstanding petitions which have been received by the Trusteeship Council were petitions from German and Italian residents or former residents of Tanganyika asking that the petitioners should be allowed to return to or remain in Tanganyika and not be repatriated to Germany or Italy as was proposed by the Administering Authority, the United Kingdom. The Trusteeship Council examined the cases and after noting the declaration of the Administering Authority, that no persons would be excluded from Tanganyika solely on grounds of nationality but only on grounds of enemy activities or sympathies or of personal undesirability( e.g., criminal record ) the Council decided that no further action was called for from it at the present time.

Any individual in a Trust Territory may address a petition to the Trusteeship Council by sending it direct to the Secretary -General of the United Nations or by sending it to him through the adminstering authority of the territory. Petitions sent direct to the Secretary-General are acknowledged direct to the petitioner. Petitions may also be submitted to the special missions visiting the territory. It was agreed by the Trusteeship Council at its first session that petitions should in general be signed, but that in extraordinary circumstances anonymous petitions might be received . The Trusteeship Council also decided that in general petitions should be written, but that in exceptional circumstances oral petitions could be accepted but they should be preceded by notice of the contents by the petitioners. The administering authority may attach its comments to any petition which it forwards to the Secretary-General. The administering authority responsible for the territory from which a petition comes may appoint a special representative to consult either orally or in writing with the Council on the petition. The representative is to be well-informed on the territory under consideration -- preferably a responsible official of the local administration . The Council then examines the petitions in detail and may, as in the case of Western Samoa, seek for further information. When it has reached its conclusions it makes its recommendations to the General Assembly.

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# C H A P T E R XI

## INTERNATIONAL AGENCIES

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Besides the Trusteeship Council, ther are a number of agencies which concern themselves, either directly or indirectly, with conditions in non-self-governing territories. The United Nations Secretariat is a general agency which watches the machinery for non-self-governing territories. Regional Advisory Commissions deal exclusively with non-self-governing territories in a particular area while specialized agencies concern themselves with particular conditions of non-self-governing territories throughout the world.

### 1. United Nations Secretariat

Under the Secretary-General of the United Nations there has been set up a Department of Trusteeship and Information from non-self-governing territories. This Department is divided into two divisions. One is the Division of Trusteeship and the other the Division of Information from non-self-governing territories. These two divisions, in their respective fields, undertake to expedite the functioning of the trusteeship system and to implement Chapter XI. They

receive, check, classify, and coordinate information from states administering Trust territories or other non-self-governing territories. In addition they maintain liaison with the economic and social agencies of the United Nations with respect to non-self-governing areas and trust territories and obtain assistance from them.

2. Regional Advisory Commissions

The advisability of establishing regional advisory commissions as a means of advancing the social and economic conditions of non-self-governing territories has been recognized by the governments concerned. Such a regional commission was first established in the Caribbean by joint action of the Governments of the United States and the United Kingdom on March, 1942, when they announced their intention to collaborate " For the purpose of encouraging and strengthening social and economic cooperation between the United States of America and its possessions and bases in the area..... and the United Kingdom and the British colonies in the same area....." [1] It was specifically stated in the joint communique that the Commission was to concern itself" primarily with matters pertaining to labor, agriculture, housing, health, education, social welfare, finance, economics, and related subjected." [2]

1. The New British Colonial Policy of Development and Welfare, American Perspective, December 1947
2. Ibid.,

The Commission was to undertake research and consultations in these fields and make recommendations as an advisory body to the two governments. The Commissioners are not instructed by their governments but are appointed to make independent recommendations which each government can accept or reject.

The Anglo-American Caribbean Commission soon developed two auxiliary bodies to assist in its work. The Caribbean Research Council was established in August 1943 to survey needs, determine what research has been done, arrange for dissemination and exchange of the results of research, provide for conferences between research workers, and recommend what further research and cooperation should be undertaken. The second auxiliary body of the Commission is the West Indian Conference. The inauguration of a general system of such conference was announced in January 1944. The first meeting of the West Indian Conference was held in Barbados from March 21 to 30, 1944, and included delegates from all United States and British possessions in the West Indies.

The Anglo-American Caribbean Commission was enlarged in December 1945 to include France and the Netherlands among its members and was renamed the Caribbean Commission. The expanded Commission sponsored the second session of the West Indian Conference at St. Thomas, Virgin Islands, from February 21 to March 12, 1946, and this time included local delegates from French and Netherlands possessions in the West

Indies as well as from British and United States territories. The Conference considered and made recommendations on such questions as agricultural and industrial diversification, trade and transport, health, plant and animal quarantine and research, soil conservation, tourist possibilities, and local crafts. It also made recommendations regarding the establishment of a central secretariat.

On October 30, 1946, an agreement restating the purposes and functions of the Caribbean Commission was signed in Washington by representatives of the four governments concerned. The preamble of the agreement states that the subscribing member governments are desirous, among other things, of encouraging and strengthening cooperation among themselves and their territories with a view toward improving the economic and social well-being of the peoples of those territories, and have agreed that the objectives herein set forth are in accord with the principles of the Charter of the United Nations.

Article XVIII of the agreement states that the Commission and its auxiliary bodies while having no present connection with the United Nations and with appropriate specialized agencies on matters of mutual concern within the terms of reference of the Commission. Further, the four member governments undertake to consult with the United Nations and appropriate specialized agencies with a view of

defining the relationship which shall exist and to insuring effective cooperation between the Caribbean commission and its auxiliary bodies and the appropriate organs of the United Nations and specialized agencies which deal with social and economic matters. As a step taken to implement this article the Caribbean commission in December 1946 approved an authorizing him to establish appropriate informal contact with the United Nations and the specialized agencies.

Second is the South Pacific Commission which was established at the South Seas Conference on February 6, 1947 at Canberra, Australia, by delegates representing the Governments of Australia, the French Republic, the Netherlands, New Zealand, the United Kingdom, and the United States. This agreement constitutes for Australia and New Zealand, the fulfilment of an objective stated in the Canberra pact of January 1944 wherein they agreed to promote the establishment and well-being of the peoples of the South Pacific.

The territorial scope of the Commission will comprise "all those non-self-governing territories in the Pacific Ocean which are administered by the participating governments and which lie wholly or in part south of the Equator and east from and including Netherlands New Guinea." The powers and functions of the South Pacific Commission are similar to those of the Caribbean Commission but include, in addition, provision for the Commission to make recommendations with

respect to economic and social rights, to address inquires to the participating governments on matters within its competence, and to discharge such other functions not specified in the agreement as may be agreed upon by the participating governments. Provisions are made in the agreement for periodic conferences of the representatives of the peoples in the South Pacific. A session of the South Pacific Conference will be held within two years after the agreement comes into force and thereafter at intervals not exceeding three years. This provision for the holding of periodic South Pacific conferences accords with the resolution on regional conferences of representatives of non-self-governing territories adopted by the General Assembly on December 14, 1946.

The agreement also provides that the Commission, while having no organic connection with the United Nations, shall cooperate as fully as possible with the United Nations and with appropriate specialized agecnices. Consultation will be undertaken by the participating governments with the United Nations and with specialized agencies with a view to defining the relationship which may in the future exist between the Commission and these bodies.

3. Specialized Agencies

The Charter of the United Nations provides that the various specialized agencies established by intergovernmental

agreement and having wide international responsibilities in economic, social, cultural, educational, health, and related fields shall be brought into relationship with the United Nations.[3]

The Economic and Social Council is authorized to enter into agreements with any these agencies in order to bring them into relationship with the United Nations and may coordinate the activities of the agencies by consultations with them and through recommendations to the General Assembly and to the members of the United Nations.[4]

The International Labor Organization which has as its purpose the promotion of social justice in all countries of the world is active in matters conerning non-self-governing areas. The International Labor Conferences adopt minimum international standards which are formulated in special international conventions and in recommendations. Certain conventions were drafted for special application to dependent areas.[5] The twenty-sixth general conference at Philadelphia in 1944 adopted proposals in the form of a recommendation concerning minimum standards of "social policy in dependent territories." A second recommendation on the same subject

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3. Article 57, Charter of the United Nations.
4. Article 63, Ibid.
5. Such as the forced labor convention 1930, contracts of employment convention 1939, and the penal sanctions convention 1940, etc.

was voted in 1945 by the twenty-seventh session of the conference held in Paris. The four previous conventions, certain articles of the recommendations of the 1944 and 1945 conferences, and twelve other conventions which seemed appropriate for reconsideration in their application to non-self-governing territories were discussed at the International Labor Conference held in Montreal in September 1946.

The General Assembly of the United Nations approved formal agreements which defined the terms on which the following specialized agencies were brought into relationship with the United Nations: the United Nations Educational, Scientific, and Cultural Organization, February 1947. The agreements between the General Assembly and the specialized agencies indicate the terms of the relationship. For example, the agreement with the Food and Agriculture Organization contains the following provisions:

> Article VII Assistance to the Trusteeship Council
>
> "The Food and Agriculture Organization of the United Nations agrees to cooperate with the Trusteeship Council in the carrying out of its functions and in particular agrees that it will, to the greatest extent possible, render such assistance as the Trusteeship Council may request in regard to matters with which the Organization is concerned." and
>
> Article VIII Non-Self-Governing Territories
>
> "The Food and Agriculture Organization of the United Nations agrees to cooperate with the United Nations in giving effect to the principle and obligations set forth in Chapter XI of the Charter of the United

"Nations with regard to matters affecting the well-being and development of the peoples of Non-Self-Governing Territories."

Consequently, as one of the principal organs of the United Nations the Trusteeship Council, in dealing with non-self-governing territories including trust territories, will have the assistance of whatsoever specialized agencies are brought into relationship with the United Nations.

4. The Economic and Social Council

The Charter of the United Nations provides that the Trusteeship Council is, where appropriate, to avail itself of the assistance of the Economic and Social Council in matters with which it is concerned.

A special session of the Economic and Social Council may be held at the request of the Trusteeship Council, and items may be proposed by the Trusteeship Council for insertion on the agenda of the Economic and Social Council. Similarly, the Trusteeship Council considers items proposed by the Economic and Social Council and is considering altering its rules of procedure to provide for holding special sessions at the request of the Economic and Social Council.

The annual reports of the administering authorities of trust territories and other documents of special concern to it are sent to the Economic and Social Council, and its

assistance has been requested in the compiling of the questionnaire. The sections of the provisional questionnaire of special concern to the Economic and Social Council have been sent to it for advice and comments and have been referred to the various commissions of the Council for recommendation. Relevant sections of the provisional questionnaire have also been referred to the specialized agencies for their comments.

The Economic and Social Council in March 1947 adopted a resolution offering assistance to the Trusteeship Council regarding population problems of the trust territories and proposed the collection of data concerning population in the trust territories through the questionnaires drawn up by the Trusteeship Council. It also listed certain matters, e.g. concerning the status of women, which it thought should be included in the questionnaire.

Various procedural measures have been approved by the Trusteeship Council to ensure its working co-operation with the Economic and Social Council, e.g. notification of meetings, communication of provisional agenda, provisions for the calling special sessions, exchange of documents, reciprocal representation in meetings of Councils, their committees and commissions, and special assistance from one Council and its subsidiary bodies to the other. Thus, the Trusteeship Council has adopted the view that all petitions from trust territories

should first be considered by it and that the advice of the appropriate commission of the Economic and Social Council should then be sought. For example, petitions concerning human rights should be communicated to the Commission on Human Rights and petitions concerning women's rights to the Commission on the Status of Women.

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# CHAPTER XII

## SUMMARY AND CONCLUSIONS

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Non-self-governing territories, covering one eighth of the population of the world, are remarkably important in international politics. The peoples of such territories have experienced, for a long time, the exploitation and colonization of great powers. The demand for social and economic development and for self-government and independence was a constant voice heard from all non-self-governing territories.

However, the idea of international responsibility had been developing, before the World War I, in many movements against colonization, in public opinion and in international conventions. The welfare of the inhabitants of non-self-governing territories had been gradually recognized as an object of colonial activity. The obvious inconsistencies of growing interests of great powers in non-self-governing territories made for world unrest, even open conflict in many aspects. All these suggested the need for international administration and supervision for those areas and a readjustment of the circumstances which would place the weaker peoples in a marked position of inferiority to the stronger.

Immediately after the World War I, the mandates system was set up under the League of Nations. It was an improvement over earlier methods of colonial administration, chiefly because it had behind it the greatest moral force in international relations, the League of Nations. It was a system for the administration of certain backward territories by advanced powers which acted as mandatories on behalf of the League of Nations according to the terms of a trust, embodied in the Covenant and the mandates system, which provided for the tutelage of the inhabitants until they are able to stand by themselves. The mandates system was a substitute for direct annexation of former German and Turkish territories, and inaugurated the first page of international control over non-self-governing territories. The mandates system, even though limited in its application, led to responsible statements on behalf of national governments that the high principles set forth through the system were applicable to other dependent territories no less than to the particular mandated territories. This, however, indicated the powers' conception of the principles which guided them in their administration. It had no formal consecration in international law or organization.

During the World War II, a new institution of international control over non-self-governing territories came into being with the birth of the United Nations. The Charter of

the United Nations relating to non-self-governing territories established machinery for all of them in general and the international trusteeship system for some of them in particular. International concern for the interests and well-being of the peoples of non-self-governing territories has been eloquently expressed in the Charter. The principle of international responsibility towards non-self-governing territories has been defined in wider and more specific terms. This is the first time in any international agreement that the interests of non-self-governing peoples have been placed ahead of any other consideration. Self-government is to be developed; due account is to be taken of the political aspirations of the peoples, who are to be assisted in the progressive development of their free political institutions. International peace and security is to be furthered, and constructive development promoted. A system of reporting regularly on the conditions in the non-self-governing territories has been established and is progressively refined. From the examination of the summaries and analysis of all information, the members can discuss fully and frankly conditions in any non-self-governing territory. And the administrative authorities can profit by mutual exchange of constructive criticisms. Furthermore, the entire world is thus kept informed of developments in non-self-governing territories through the discussion in the United Nations.

However, the effectiveness of this new system of international control over non-self-governing territories toward the achievement of the objectives as set forth in the United Nations Charter can be judged and tested only by time and experience. But, one must realize that the machinery for non-self-governing territories is an essential part of the institutions of the world security system of the United Nations. To strengthen it is to advance in some measures the efforts which have been made to build the foundation for a reign of law throughout the world.

Under the spirit of the Charter of the United Nations, it would be wise, I conclude, that the principle of international responsibility and control towards non-self-governing territories should be strengthened as the guiding principle for all the powers who have the fate of the peoples of non-self-governing territories in their hands. It will eliminate a major cause of international controversy and work toward a world of peace and progress, and a world of equality.

# APPENDIXES

## APPENDIX I

### ARTICLE XXII OF THE COVENANT OF THE LEAGUE OF NATIONS

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience of their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the Leaque.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised

subject to the rendering of administrative advice and assistance by a Mandatory until such times as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the Leaque.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its stage.

The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

## APPENDIX II

### ARTICLES OF THE UNITED NATIONS CHARTER APPLICABLE TO NON-SELF-GOVERNING TERRITORIES AND INTERNATIONAL TRUSTEESHIP SYSTEM

Chapter XI Declaration Regarding Non-Self-Governing Territories

Article 73 Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligations to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and to this end:

a. To ensure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment, and their protection against abuses;

b. To develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. To further international peace and security;

d. To promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic and scientific purposes set forth in this Article; and

e. To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapter XII and XIII apply.

Article 74 Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies , no less than in respect of their metropolitan areas, must be based on the general principle of good neighborliness due account being taken of the interests and well-being of the rest of the world , in social , economic and commercial matters.

Chapter XII International Trusteeship System

Article 75 The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed

thereunder by subsequent individual agreements. These territories are hereafter referred to as Trust Territories.

Article 76 The basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. To further international peace and security;

b. To promote the political, economic, social and educational advancement of the inhabitants of the Trust Territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. To ensure equal treatment in social, economic and commercial matters for all Members of the United Nations and their national, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77 1. The trusteeship system shall apply to such territories in the following categories as may be placed there under by means of trusteeship agreements:

a. Territories now held under mandate;

b. Territories which may be detached from enemy states as a result of the Second World War; and

c. Territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78 The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79 The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations , and shall be approved as provided for in Articles 83 and 85.

Article 80 1. Except as may be agreed upon in individual

trusteeship agreements, made under Articles 77 and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81 The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82 There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, with out prejudice to any special agreement or agreements made under Article 43.

Article 83 1. All functions of the United Nations relating to strategic areas , including the approval of the

terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas.

Article 84 It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

Article 85 1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

Chapter XIII The Trusteeship Council

Composition

Article 86 1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

Article 87 The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88 The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis for such questionnaire.

Voting

Article 89 1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90 1. The Trusteeship Council shall adopt its own rules of procedure including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91 The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

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